

# MAINE STATE LEGISLATURE

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# 125th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2011

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Legislative Document

No. 182

H.P. 159

House of Representatives, January 27, 2011

### **An Act To Prohibit the Sale of Russian Olive and Other Invasive Terrestrial Plants**

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Reference to the Committee on Agriculture, Conservation and Forestry suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST  
Clerk

Presented by Representative EVES of North Berwick.  
Cosponsored by Senator SCHNEIDER of Penobscot and  
Representatives: DUCHESNE of Hudson, McCABE of Skowhegan, O'BRIEN of Lincolnville.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 7 MRSA §2211, sub-§2-A** is enacted to read:

3 **2-A. Invasive terrestrial plant.** "Invasive terrestrial plant" means any nonnative  
4 plant species, including *Elaeagnus angustifolia*, commonly known as Russian olive, that:

5 A. Has spread or has the potential to spread into native plant habitats in the State;

6 B. Has caused or has the potential to cause economic or environmental harm by  
7 developing self-sustaining populations that disrupt or threaten native plant  
8 populations in the State; and

9 C. Is on a list of invasive terrestrial plants maintained by the commissioner in  
10 accordance with section 2218, subsection 2.

11 **Sec. 2. 7 MRSA §2213, sub-§1, ¶A,** as enacted by PL 1991, c. 785, §3, is  
12 amended to read:

13 A. The State Horticulturist or an assistant shall inspect nurseries as determined  
14 necessary by the State Horticulturist. Nurseries must be accessible at reasonable  
15 times for inspection. If plant pests are found at sufficient levels to pose a threat to  
16 other horticultural establishments or the general public, the State Horticulturist may  
17 issue an order to embargo or detain the nursery stock. The State Horticulturist shall  
18 issue an order for the destruction of any invasive terrestrial plants found offered for  
19 sale. Upon issuing an order of embargo or detention or destruction, the State  
20 Horticulturist shall notify the owner of the nursery stock of that order. Within 10  
21 days of receipt of notification, the owner may request a hearing to be held in  
22 accordance with the Maine Administrative Procedure Act.

23 The State Horticulturist may prescribe measures designed to control the plant pests.  
24 The State Horticulturist shall remove the order of embargo or detention if satisfied  
25 that the plant pests have been controlled. The State Horticulturist may prescribe  
26 measures for the destruction of or may seize and destroy invasive terrestrial plants.

27 **Sec. 3. 7 MRSA §2214,** as enacted by PL 1991, c. 785, §3, is amended to read:

28 **§2214. Shipments certified**

29 Nursery stock shipped into this State from any other state, province or country must  
30 bear a certificate on each package stating that the contents were inspected by an  
31 authorized inspecting officer and that the contents appear to be free from plant pests. The  
32 State Horticulturist or an assistant may inspect, at the point of destination, all nursery  
33 stock coming into the State. If that nursery stock is infested with any plant pests or  
34 determined to be an invasive terrestrial plant, the State Horticulturist, after notice and  
35 opportunity for a hearing as provided in the Maine Administrative Procedure Act, may  
36 order the stock destroyed or returned to the consignor at the consignor's expense.

37 **Sec. 4. 7 MRSA §2216,** as enacted by PL 1991, c. 785, §3, is amended to read:

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**§2216. Violations**

Any violation of this chapter or rules adopted pursuant to section 2217 or section 2218 is a civil violation for which a ~~forfeiture~~ fine of not more than \$500 may be adjudged.

**Sec. 5. 7 MRSA §2218** is enacted to read:

**§2218. Prohibition on sale of invasive terrestrial plants**

**1. Prohibition.** A person may not sell invasive terrestrial plants.

**2. Criteria for identifying invasive terrestrial plants; rulemaking.** The commissioner shall develop criteria by which to evaluate nonnative plant species for possible inclusion on a list of invasive terrestrial plants. The commissioner shall adopt by rule the evaluation criteria and establish a list of invasive terrestrial plants. Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**3. Penalty.** In addition to a fine imposed under section 2216, a violation of this section may result in the revocation of a nursery license under section 2171, subsection 2.

**SUMMARY**

This bill prohibits the sale of *Elaeagnus angustifolia*, a shrub commonly called "Russian olive." It directs the Commissioner of Agriculture, Food and Rural Resources to adopt rules establishing criteria for evaluating nonnative plant species for designation as invasive terrestrial plants. A list of plants meeting the criteria for invasive terrestrial plants would be established in rule and those plants prohibited from sale.